

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1928

Introduced by Assembly Member Cook

February 22, 2012

An act to add Section ~~1502.8 to the Health and Safety~~ *17732.2 to the Welfare and Institutions* Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1928, as amended, Cook. Foster homes: residential capacity.

The California Community Care Facilities Act provides for the licensing and regulation of community care facilities, including, among others, foster family homes, small family homes, and foster family agencies, as defined. Under existing law, a violation of the act is a misdemeanor.

Existing law limits foster family homes and small family homes to 6 or fewer foster children, but allows a licensing agency to increase that limit to 8 foster children under specified circumstances. Existing regulations of the State Department of Social Services require that these licensing agencies include biological, adoptive, and guardianship children, ~~and in the number of children for whom these homes are licensed to provide care and supervision. Existing law also require~~ *requires* the licensing agency to take into consideration how many children, in addition to the children already living in the home, ~~that~~ the caregiver is capable of providing care and supervision to and that the home can accommodate.

Under existing law, the State Department of Social Services is required to develop a program to establish specialized foster care homes for children with special health care needs. No more than 2 foster care

children are permitted to reside in a specialized foster care home, except that an additional foster child, or children, may be permitted if specified conditions are met.

This bill would ~~require the licensing agency to exclude biological children, adoptive children, or children in guardianship who also reside on the premises for purposes of the capacity limits applicable to a foster family home or small family home, or a family home certified by a foster family home agency licensed pursuant to the act~~ specify that the maximum licensed capacity for a specialized foster care home is 2 foster children, with or without special health care needs, and that up to 4 biological or adoptive children, or children in guardianship, may also reside on the premises. The bill would specify further that a specialized foster care home would be approved for an additional foster child or children only to the extent that the total number of children in the home, including foster, biological, or adoptive children, and children in guardianship, on the premises does not exceed 6.

The bill would authorize the department to implement ~~these~~ its provisions through all-county letters ~~until the adoption of implementing regulations, as prescribed~~ or similar instructions from the Director of Social Services.

This bill would state that its provisions are declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17732.2 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 17732.2. (a) Subject to subdivision (b), the maximum licensed
- 4 capacity for a specialized foster care home shall be two foster
- 5 children, with or without special health care needs. In addition,
- 6 up to four biological or adoptive children, or children in
- 7 guardianship, may reside on the premises, for a total of six
- 8 children.
- 9 (b) A specialized foster care home shall be approved for
- 10 additional foster child or children pursuant to subdivision (a) or
- 11 (b) of Section 17332, only to the extent that the total number of
- 12 children in the home, including foster, biological or adoptive

1 *children, and children in guardianship on the premises, does not*
2 *exceed six.*

3 *(c) Notwithstanding the rulemaking provisions of the*
4 *Administrative Procedure Act (Chapter 3.5 (commencing with*
5 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
6 *Code), the department may implement and administer the changes*
7 *made by this act through all-county letters or similar instructions*
8 *from the director.*

9 *(d) The Legislature finds and declares that this section is*
10 *declaratory of existing law.*

11 SECTION 1. Section 1502.8 is added to the Health and Safety
12 Code, to read:

13 1502.8. ~~(a) Notwithstanding any other law, in interpreting the~~
14 ~~capacity limits applicable to a foster family home or small family~~
15 ~~home licensed pursuant to this chapter, or a family home certified~~
16 ~~by a foster family home licensed pursuant to this chapter, as~~
17 ~~provided in Sections 1502 and 1505.2, the licensing agency shall~~
18 ~~exclude biological children, adoptive children, or children in~~
19 ~~guardianship who also reside on the premises.~~

20 ~~(b) (1) Notwithstanding the rulemaking provisions of the~~
21 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
22 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
23 ~~Code), the department may implement and administer the changes~~
24 ~~made by this act through all-county letters or similar instructions~~
25 ~~from the director until regulations are adopted. The department~~
26 ~~shall adopt emergency regulations implementing these provisions~~
27 ~~no later than July 1, 2013. The department may readopt any~~
28 ~~emergency regulation authorized by this section that is the same~~
29 ~~as, or substantially equivalent to, any emergency regulation~~
30 ~~previously adopted under this section.~~

31 ~~(2) The initial adoption of regulations pursuant to this section~~
32 ~~and one readoption of emergency regulations shall be deemed to~~
33 ~~be an emergency and necessary for the immediate preservation of~~
34 ~~the public peace, health, safety, or general welfare. Initial~~
35 ~~emergency regulations and the one readoption of emergency~~
36 ~~regulations authorized by this section shall be exempt from review~~
37 ~~by the Office of Administrative Law. The initial emergency~~
38 ~~regulations and the one readoption of emergency regulations~~
39 ~~authorized by this section shall be submitted to the Office of~~
40 ~~Administrative Law for filing with the Secretary of State and each~~

- 1 ~~shall remain in effect for no more than 180 days, by which time~~
- 2 ~~final regulations shall be adopted.~~

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